



Ordinance No. O2015-03-003

AN ORDINANCE OF THE COUNCIL OF THE CITY OF NOGALES, ARIZONA, AMENDING CHAPTER 11 OF THE NOGALES CITY CODE RELATING TO BUSINESS LICENSING AND FEES, OCCUPATIONAL TAXES AND ADOPTING A SIMPLIFIED SCHEDULE OF OCCUPATIONAL TAX CATEGORIES. (LEGAL)

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF NOGALES, ARIZONA, as follows:

SECTION ONE: Nogales City Code Chapter 11's title is hereby amended to read "Business Licenses, Regulations and Occupational License Tax" and Article I's title is hereby amended to read "Business Licenses."

SECTION TWO: Subsections 11-2(a)(1) and (7) of Section 11-2 "License Required" is hereby amended as follows (strikeouts indicate deletions, capitals indicate additions):

(a)(1) Commence, practice, transact or carry on any trade, calling, profession, occupation or business, ~~subject to the imposition of a license tax under this article~~ without first having procured a license from the city to do so, or without complying with any and all ~~relations~~ REGULATIONS of such trade, calling profession, occupation or business designated in this chapter.

* * *

(A)(7) Fail or refuse to obtain aN quarterly ANNUAL business license or to aid or abet another in any attempt to intentionally refuse to obtain such a license or evade the license tax.

SECTION THREE: Section 11-3 "Issuance by Tax Collector; contents" is hereby deleted and new Section 11-3 "Application for Business License; Fee" is hereby adopted, which shall read as follows:

- (a) Prior to first commencing, practicing, transacting or carrying on any trade, calling, profession, occupation or business within the limits of the city, a person shall obtain a business license issued by the Tax Collector.
- (B) Applications for a business license shall be in a form that meets the requirements of Section 11-21, and all applications must be accompanied by a nonrefundable application fee and initial year's license fee, in such amounts set by order or resolution of the city council.
- (C) By January 1 of each year subsequent to the year in which a business first obtains a business license, licensees shall submit to the Tax Collector updated information contained in the application form, accompanied with an annual business license fee in an amount set by the city council.
- (D) The requirements of this section shall apply to each location at which a licensee conducts business. Each separate cart, van or truck of a mobile food vendor shall be deemed one location, although it may relocate its place of business from time to time. One permit for peddlers or transient business activity shall be sufficient for the time and duration of the permit.
- (E) Any person required to be licensed under this chapter who fails to obtain a license on or before any business activity requiring such license shall be subject to the license fees due for each year in business plus a penalty in the amount of fifty percent (50%) of the applicable fee for each period of time for which such fee would have been imposed, from and after the date on which such activity commenced until paid. This penalty shall be in addition to any other penalty imposed under this chapter and must be paid prior to the issuance of any license.

SECTION FOUR: Section 11-6 "When taxes delinquent; penalty and interest applied" is hereby amended to add new subsections (d) and (e), which shall read as follows:

(d) Any licensee who fails to pay an occupational license tax imposed by this chapter by the delinquency date shall be subject to pay interest upon such tax until paid. The interest shall compound annually, with all interest outstanding as of January 1 of each year to be considered as part of the principal, which shall accrue interest thereafter.

(E) The interest rate for both underpayments and overpayments shall be the federal short-term rate, determined pursuant to Section 6621(b) of the United States Internal Revenue Code, as amended, plus three percentage points.

SECTION FIVE: Section 11-9's title is hereby amended to read "Notices required" and its text shall read as follows (strikeouts indicate deletions, capitals indicate additions)

(a) The holder of any license required by this chapter shall notify the city TAX COLLECTOR, in writing, of ANY MAJOR CHANGE IN THE NATURE ~~the termination~~ of his business, occupational or professional activity either before the DATE OF THE CHANGE ~~termination date~~ or within ten days thereafter. FOR THE PURPOSE OF THIS SECTION, A MAJOR CHANGE MEANS COMMENCING OR TERMINATING A BUSINESS OR OCCUPATIONAL ACTIVITY, CHANGING LOCATION, OR SIMILAR SIGNIFICANT CHANGE THAT IMPACTS THE TYPE OR AMOUNT OF SALES AND/OR LICENSE TAXES REQUIRED TO BE PAID BY THE LICENSEE.

(b) ALL FILINGS OF WHATEVER NATURE, INCLUDING WITHOUT LIMITATION MONTHLY TAX RETURNS, ANY LICENSEE SUBMITS TO THE STATE OF ARIZONA SHALL ALSO BE COPIED TO THE CITY TAX COLLECTOR.

SECTION SIX: Section 11-20 "Revocation" is hereby deleted and replaced with new Section 11-20 titled "Denial and Revocation," which shall read as follows:

The Tax Collector may reject an application for a business license, or, with 30 days notice and an opportunity to be heard, may revoke a business license already issued, if the Tax Collector finds that the use, proposed use or conditions on the site create a violation of this Chapter or any other city ordinance, including but not limited to uniform or international codes that have been adopted by reference as city codes, or that any other permit required for occupation of the premises has not been issued.

SECTION SEVEN: Section 11-236, "License required for commercial or industrial private collectors," shall be amended to delete "this chapter" from the last sentence of subsection (3), and replaced with "this article."

SECTION EIGHT: Ordinance No. O98-06-09 is hereby amended by deleting Section One of Exhibit A thereto, to be replaced by "Schedule of Occupational Taxes by NAICS Categories," attached hereto as Exhibit "A"; provided that Sections Two through Seven of said Exhibit A to Ordinance No. O98-06-09 shall remain in force and effect.

SECTION NINE: Section 300(a) of Nogales City Code Chapter 9A, the Tax Code of the City of Nogales, is hereby amended to eliminate the fees for a municipal Privilege License.

SECTION TEN: All ordinances and resolutions inconsistent with this ordinance are hereby repealed.

SECTION ELEVEN: The effective date of this ordinance shall be July 1, 2015, provided that all businesses currently required to obtain quarterly business licenses shall continue with said obligation until January 1, 2016.

SECTION TWELVE: Pursuant to A.R.S. § 9-812, after the effective date of this ordinance the Town Clerk is directed to publish notice of adoption for two consecutive weeks in a newspaper of general circulation.

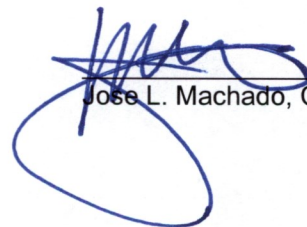
PASSED, ADOPTED, AND APPROVED by the Council of the City of Nogales, Arizona, this 06th day of May, 2015.


John F. Doyle, Mayor

ATTEST:


Leticia Robinson, City Clerk

APPROVED AS TO FORM:


Jose L. Machado, City Attorney

STAFF SUMMARY**SUBJECT: Ordinance requiring all business to be licensed.**

During the 2013 and 2014 legislative sessions the Arizona legislature approved statutory modifications to simplify transaction privilege tax (TPT -- also known as sales tax) collections and TPT (sales tax) licensing. TPT (sales tax) licensing applies only for businesses engaged in retail transactions and is different from the city's occupational license tax, which is paid by businesses with operations that are not subject to the city sales tax.

As a result of these statutory changes, the Nogales City Code must be modified to comply with state law for municipal TPT (sales tax) licensing for retail businesses. The proposed changes to Chapter 11 of the City Code include the establishment of a Nogales business license to retain the city's ability to control local zoning for different types of businesses, to ensure the public's health and safety, and to ensure the City knows about new businesses for which AZ DOR issues a city TPT (sales tax) license. This item will be addressed with City Council's action on this ordinance and related order.

Further, Schedule A, Schedule of Occupational License Taxes, which City Council adopted in 1998 as part of Ordinance O98-06-09, requires an update to simplify and reduce the number of occupational categories. The categories determine the quarterly taxes required from businesses with operations not subject to the city sales tax.

BACKGROUND:

Under the amended statutes and municipal tax code, the Arizona Department of Revenue (AZ DOR) will administer the city's TPT (sales tax) licensing but not the city's occupational license tax. AZ DOR will **not** conduct any health, safety and zoning inspections of the location where Nogales TPT (sales tax) licensee applicants propose to operate a business.

The proposed changes to Chapter 11 of the City Code include the establishment of a Nogales business license to retain the city's ability to control local zoning for different types of businesses, to ensure the public's health and safety, and to ensure the City knows about new businesses for which AZ DOR issues a city TPT (sales tax) license. This Nogales business license will be applied to all businesses operating in the City.

The Nogales business license is different from the Nogales occupational license tax. The Nogales occupational license tax was established for those business operations not subject to the city sales tax. The proposed Nogales business license fee will apply to all 2,970 businesses in the city. It is in addition to the occupational tax that is levied for 880 of the 2,970 businesses on record with the City [as of 3/26/2015]. There are 2,090 retail businesses in the city.

A new business will pay the 35.00 application fee plus an initial business license fee of up to \$35 that shall be prorated as follows:

Business App. Date	Applicable License Fee
January 1--March 31	\$35.00
April 1--June 30	\$26.25
July 1--September 30	\$17.50
October 1--December 31	\$ 8.75

The annual business license renewal fee shall be thirty-five dollars (\$35.00). Existing businesses will pay \$35.00 per year on a calendar year basis. The proposed fee of \$35 is \$10 more than the amount paid by businesses engaging in retail sales.

It is estimated that an additional \$51,700 will be generated annually from the proposed business license fee based on the 2,970 existing businesses. If 100 new businesses submit an application for a business license, then an additional \$7,000 would be generated for a total of \$58,700.

Finally, Schedule A, Schedule of Occupational License Taxes, that is referenced in Nogales City Code Chapter 11 needs to be updated and simplified. Schedule A is the occupational tax classification schedule per the North American Industry Classification System (NAICS). The city uses this schedule when determining the specific occupational tax that applies to a business operating in Nogales.

TOTAL COST OF PROJECT(S): It is estimated that an additional \$51,700 will be generated annually from the proposed business license fee based on the 2,970 existing businesses. If 100 new businesses submit an application for a business license, then an additional \$7,000 would be generated for a total of \$58,700.

The additional revenue will be used to offset the \$59,400 fee that AZ DOR will assess the City for implementation of the state statutes resulting in AZ DOR's administration and collection of local sales taxes and the associated sales tax licensing.

STAFF RECOMMENDATION: It is the recommendation of staff that the City Manager be authorized to execute the proposed changes to the Nogales City Code.

SUGGESTED MOTION:

"I move to approve Order No: O2015-03-003"

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During the 2013 and 2014 legislative sessions the Arizona legislature approved statutory modifications to simplify transaction privilege tax (TPT -- also known as sales tax) collections and TPT (sales tax) licensing. TPT (sales tax) licensing applies only for businesses engaged in retail transactions and is different from the city's occupational license tax, which is paid by businesses with operations that are not subject to the city sales tax.

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Further, Schedule A, Schedule of Occupational License Taxes, which City Council adopted in 1998 as part of Ordinance O98-06-09, requires an update to simplify and reduce the number of occupational categories. The categories determine the quarterly taxes required from businesses with operations not subject to the city sales tax.

BACKGROUND:

Under the amended statutes and municipal tax code, the Arizona Department of Revenue (AZ DOR) will administer the city's TPT (sales tax) licensing but not the city's occupational license tax. AZ DOR will **not** conduct any health, safety and zoning inspections of the location where Nogales TPT (sales tax) licensee applicants propose to operate a business.

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It is estimated that an additional \$51,700 will be generated annually from the proposed business license fee based on the 2,970 existing businesses. If 100 new businesses submit an application for a business license, then an additional \$7,000 would be generated for a total of \$58,700.

Finally, Schedule A, Schedule of Occupational License Taxes, that is referenced in Nogales City Code Chapter 11 needs to be updated and simplified. Schedule A is the occupational tax classification schedule per the North American Industry Classification System (NAICS). The city uses this schedule when determining the specific occupational tax that applies to a business operating in Nogales.

TOTAL COST OF PROJECT(S): It is estimated that an additional \$51,700 will be generated annually from the proposed business license fee based on the 2,970 existing businesses. If 100 new businesses submit an application for a business license, then an additional \$7,000 would be generated for a total of \$58,700.

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SUGGESTED MOTION:

"I move to approve Order No: O2015-03-003"

SCHEDULE OF OCCUPATIONAL LICENSE TAXES
Exhibit "A"

Code	Occupation	Quarterly License Tax
Applies to all occupations or businesses listed below:		\$50.00
Agricultural or Animal Production		
NAICS Codes 11000 through 115310		
Code	Occupation	Quarterly License Tax
Applies to all occupations or businesses listed below:		\$300.00
Mining		
NAICS Codes 21000 through 213115		
Code	Occupation	Quarterly License Tax
Applies to all occupations or businesses listed below:		\$300.00 10 employees or less
Construction		\$500.00 more than 10 employees
NAICS Codes 23000 through 237990		
Code	Occupation	Quarterly License Tax
Applies to all occupations or businesses listed below:		\$50.00 2 employees or less
Specialty Trade Contractors		\$75.00 3 to 10 employees
NAICS Codes 238000 through 238990		\$150.00 more than 10 employees
Code	Occupation	Quarterly License Tax
Applies to all occupations or businesses listed below:		\$150.00 10 employees or less
Food Manufacturing		\$200.00 11-20 employees
NAICS Codes 311000 through 311712		\$300.00 21-40 employees
		\$400.00 41-60 employees
		\$500.00 61-80 employees
		\$600.00 more than 80 employees
Code	Occupation	Quarterly License Tax
Applies to all occupations or businesses listed below:		\$50.00
Bakeries and Tortilla Manufacturing		
NAICS Codes 311800 through 311830		
Code	Occupation	Quarterly License Tax
Applies to all occupations or businesses listed below:		\$150.00
Other Food Manufacturing		
NAICS Codes 311900 through 311999		

Code Occupation
Applies to all occupations or businesses listed below:
Beverage Manufacturing
NAICS Codes 312000 through 312140

Quarterly License Tax
\$300.00

Code Occupation
Applies to all occupations or businesses listed below:
Manufacturing or Printing Activities
NAICS Codes 313000 through 399999

Quarterly License Tax
\$150.00 10 employees or less
\$200.00 11-20 employees
\$300.00 21-40 employees
\$400.00 41-60 employees
\$500.00 61-80 employees
\$600.00 more than 80 employees

Code Occupation
Applies to all occupations or businesses listed below:
Wholesale Trade
NAICS Codes 420000 through 424420

Quarterly License Tax
\$300.00

Code Occupation
Applies to all occupations or businesses listed below:
Food, Farm and Alcoholic Beverage Wholesalers
NAICS Codes 424430 through 424820

Quarterly License Tax
\$600.00

Code Occupation
Applies to all occupations or businesses listed below:
Miscellaneous Nondurable Goods Wholesalers
NAICS Codes 424900 through 425120

Quarterly License Tax
\$150.00

Code Occupation
Applies to all occupations or businesses listed below:
Transportation
Motor Vehicle Towing (more than 6 tires)
NAICS Codes 481000 through 488991

Quarterly License Tax
\$300.00

Code Occupation
Applies to all occupations or businesses listed below:
Transportation
Motor Vehicle Towing (6 tires or less)
NAICS Code 488410

Quarterly License Tax
\$100.00

Code Occupation
Applies to all occupations or businesses listed below:
Taxis and Shuttles
NAICS Code 488992

Annual License Tax
refer to City Code Section 18-302

Code Occupation
Applies to all occupations or businesses listed below:
All Other Support Activities for Transportation
NAICS Code 488999

Quarterly License Tax
\$150.00

Code Occupation
Applies to all occupations or businesses listed below:
Couriers and Messengers
NAICS Codes 492000 through 492210

Quarterly License Tax
\$50.00

Code Occupation
Applies to all occupations or businesses listed below:
Warehousing and Storage
NAICS Codes 493100 through 493190

Quarterly License Tax
\$600.00

Code Occupation
Applies to all occupations or businesses listed below:
Printing, Video, Broadcasting, Information and Communications
NAICS Codes 510000 through 519190

Quarterly License Tax
\$300.00

Code Occupation
Applies to all occupations or businesses listed below:
Finance
NAICS Codes 520000 through 522300

Quarterly License Tax
\$600.00

Code Occupation
Applies to all occupations or businesses listed below:
Mortgage, Securities and Other Loan Brokers
Produce and Customs Brokerage (no warehouse)
NAICS Codes 523100 through 523999

Quarterly License Tax
\$100.00 per licensed individual
3 employees or less
\$300.00 more than 3 employees

Code Occupation
Applies to all occupations or businesses listed below:
Produce and Customs Brokerage (with warehouse)
NAICS Code 523140

Quarterly License Tax
\$600.00

Code Occupation
Applies to all occupations or businesses listed below:
Insurance Carriers
NAICS Codes 524000 through 524130

Quarterly License Tax
\$300.00

Code Occupation
Applies to all occupations or businesses listed below:
Agencies, Brokerage and Other Insurance Activities
NAICS Codes 524200 through 524298

Quarterly License Tax
\$100.00 per licensed individual
10 employees or less
\$300.00 more than 10 employees

Code Occupation
Applies to all occupations or businesses listed below:
Funds and Trusts
NAICS Codes 525000 through 525990

Quarterly License Tax
\$300.00

Code Occupation
Applies to all occupations or businesses listed below:
Real Estate
NAICS Codes 531000 through 531390

Quarterly License Tax
\$100.00 per licensed individual
3 employees or less
\$300.00 more than 3 employees

Code Occupation
Applies to all occupations or businesses listed below:
Rental and Leasing
NAICS Code 532000 through 533110

Quarterly License Tax
\$150.00

Code Occupation
Applies to all occupations or businesses listed below:
Professional and Technical Services
NAICS Codes 541100 through 541110

Quarterly License Tax
\$100.00 per licensed individual
3 employees or less
\$300.00 more than 3 employees

Code Occupation
Applies to all occupations or businesses listed below:
Notaries and Other Legal Services
NAICS Codes 541120 through 541190

Quarterly License Tax
\$50.00 per licensed individual

Code Occupation
Applies to all occupations or businesses listed below:
Title Insurance, Abstract and Settlement Offices
NAICS Code 541191

Quarterly License Tax
\$600.00

Code Occupation
Applies to all occupations or businesses listed below:
Accounting, Bookkeeping and Payroll Services
NAICS Codes 541200 through 541214

Quarterly License Tax
\$100.00 per licensed individual
3 employees or less
\$300.00 more than 3 employees

Code Occupation
Applies to all occupations or businesses listed below:
Tax Preparation and Other Accounting Services
NAICS Codes 541213 and 541219

Quarterly License Tax
\$50.00

Code Occupation
Applies to all occupations or businesses listed below:
Architectural and Engineering
NAICS Codes 541300 through 541330

Quarterly License Tax
\$100.00 per licensed individual
3 employees or less
\$300.00 more than 3 employees

Code Occupation
Applies to all occupations or businesses listed below:
Professional Services
NAICS Codes 541340 through 541990

Quarterly License Tax
\$100.00

Code Occupation
Applies to all occupations or businesses listed below:
Management
NAICS Codes 551110 through 551114

Quarterly License Tax
\$100.00

Code Occupation
Applies to all occupations or businesses listed below:
Administrative and Support Services
NAICS Codes 560000 through 561990

Quarterly License Tax
\$100.00

Code Occupation
Applies to all occupations or businesses listed below:
Waste Management and Collection
NAICS Codes 562000 through 562219

Quarterly License Tax
\$600.00

Code Occupation
Applies to all occupations or businesses listed below:
Remediation and Other Waste Management Services
NAICS Codes 562900 through 562998

Quarterly License Tax
\$150.00

Code Occupation
Applies to all occupations or businesses listed below:
Educational Services (for profit)
NAICS Codes 611000 through 611710

Quarterly License Tax
\$150.00

Code Occupation
Applies to all occupations or businesses listed below:
Health Care and Social Assistance
NAICS Codes 620000 through 621399

Quarterly License Tax
\$100.00 per licensed individual
3 employees or less
\$300.00 more than 3 employees
\$50.00 per part time individual

Code Occupation
Applies to all occupations or businesses listed below:
Outpatient Care and Medical Laboratories
NAICS Codes 621400 through 621999

Quarterly License Tax
\$150.00

Code Occupation
Applies to all occupations or businesses listed below:
Hospitals
NAICS Codes 622000 through 624410

Quarterly License Tax
\$100.00 1 to 5 beds
\$200.00 6 to 10 beds
\$300.00 more than 10 beds

Code Occupation
Applies to all occupations or businesses listed below:
Arts, Entertainment and Recreation
NAICS Codes 710000 through 713990

Quarterly License Tax
\$150.00

Code Occupation
Applies to all occupations or businesses listed below:
Drinking Places (alcoholic beverages) with topless or nude dancing
NAICS Code 722410

Quarterly License Tax
\$3000.00

Code Occupation
Applies to all occupations or businesses listed below:
Topless or Nude Dancers
NAICS Code 722410

Quarterly License Tax
\$300.00
per individual dancer

Code Occupation
Applies to all occupations or businesses listed below:
Other Services (except public administration)
NAICS Codes 810000 through 812922

Quarterly License Tax
\$50.00

Code Occupation
Applies to all occupations or businesses listed below:
Parking Lots and Garages
NAICS Code 812930

Quarterly License Tax
\$150.00

Code Occupation
Applies to all occupations or businesses listed below:
Water Bottle Delivery, Sales and Other Related Activities
NAICS Code 812990

Quarterly License Tax
\$100.00

Code Occupation
Applies to all occupations or businesses listed below:
Sales of Water In Bottles Owned By Customer
NAICS Code 812990

Quarterly License Tax
\$50.00

Code Occupation
Applies to all occupations or businesses listed below:
All Other Personal Services
NAICS Code 812990

Quarterly License Tax
\$50.00